



[john@ploegandbrown.com](mailto:john@ploegandbrown.com)

**From:** Matthew Borgula <matt@sbbllaw.com>  
**Sent:** Tuesday, December 12, 2023 4:14 PM  
**To:** Johannes Ploeg  
**Subject:** Re: Jenkins

Thank you for passing along this information. I've had a chance to speak with David and it is his intent to complete the contract between you and Jenkins Estates (JE). To that end, at your request, JE will return the \$218,709.49 to you for phase iv, v work that has yet to be started. As for the other items listed in your email, I thought it would be easier to provide a comment directly below each item.

On Mon, Dec 11, 2023 at 11:20 AM Johannes Ploeg <[john@ploegandbrown.com](mailto:john@ploegandbrown.com)> wrote:

Good Morning Matt,

Please see attached spreadsheet. I had sent this spreadsheet to David last month. The sheet shows the payments I made to David against the work performed. If David is sincere about getting this home back on track, he needs to show some good faith effort. No work, directed by or initiated by Jenkins Estates has been performed on the home **in five weeks**. Since then, the home has been left open to the elements with a big hole in the roof where a dormer is supposed to go.

Jodie texted me just a couple of days ago to ask "has David done anything?". She stated that she is "left in the dark". I am quite surprised by this since she told me that David used her builder license to pull the permits on our home. It does not seem fathomable that Jodie, who works directly with David, and who is the builder of our home, does not know whether David has done any work on the home and is "kept in the dark". This just adds to my suspicion that we have been "duped" out of our money. I told Jodie that David has not done anything since the day, five weeks ago when the windows arrived. I had to pay off the framing bill so they would come back and install them. Since then, nothing.....

Damage to the home from the elements has been found. In order to mitigate our damages we had no choice to but pay additional costs to protect the home from further damage. In addition, we can't let the project just sit idle. The basement and garage was supposed to be poured before the temperature drops below freezing. It was scheduled a month ago but did not happen, because the underground plumbing was supposed to happen first. The underground plumbing did not happen either. The Builder Trend schedule five weeks ago showed that the following was to be completed by last week:

LP Facia/Sofit

Plumbing Ground

Plumbing Rough

Well Install

Roofing

Basement Slab

Garage Slab

Electrical Rough

Furnace Connection

Septic Inspection.

Here is where we are at:

LP Facia/Sofit – Never happened because the framer was not paid – We paid David \$87,975.72 for framing. We need to be reimbursed for the **\$40,729.50 we paid to Trubuilt**

*Trubuilt was paid approximately \$80,000 of the contract amount for framing. Halfway through the framing Trubuilt asked for additional funds and a disagreement ensued. Trubuilt did not finish the framing and is about 60% done. JE believed that the additional \$40,729.50 request was for a change order outside the scope of their agreement. My understanding is that you agreed to pay and did pay that amount to keep Trubuilt working. We've now heard that you no longer want Trubuilt to complete their work? Let me know if that is correct and if you have a suggestion as to who will complete the work Trubuilt was supposed to complete and for which it has already received over \$120,000.*

Plumbing Ground Never happened (reasons unknown). We have to get the basement and garage poured so the framer can frame the basement. Since David has done nothing to make this happen we are hiring a concrete company to finish the job.

*JE hired Mark Ullery to do the ground plumbing, which needs to be completed prior to pouring the basement. Ullery backed out of the contract the last week of November for personal reasons. He has not been paid anything. We need to get a new contractor and JE will hire and pay that new contractor.*

Plumbing Rough – Never happened. We needed the underground plumbing done ASAP so the basement can be poured. We paid David **\$27,569.31 for plumbing** and no work has been done. We need this back so we can hire a plumber.

*Same as ground plumbing.*

Well Install – Never happened. David gave us the name of the company that was installing the well. They never heard of David. We paid David **\$10,860.00 for the well** and need this back so we can hire a Well drilling company.

*JE has not been approved to do the well, as Steve Christianson, with Suttons Bay, has not approved the placement of the well or septic system. Once that is approved by Suttons Bay, JE will oversee the installment of the well.*

Roofing – Never happened. David hired Trubuilt to do the roof. They started work on it but walked off when they were not paid. David stated he hired a different company to do the roof. We called them to see when they were going to start but they had no idea because David would not answer them for weeks. We paid David **\$19,994.62 for the roof** and need that back so we can hire a roofer.

*Trubuilt was paid in large part and walked off the job when JE attempted to enforce its contract with them. JE will make the roof installation a priority.*

Basement Slab - We paid David **\$13,783.80 for Flatwork** that was never started. We need this back so we can pay the concrete company to pour the basement and garage.

This is correct. The basement slab has not yet started. JE will pour the basement and garage when appropriate.

Garage Slab - Same as above

Same.

Electrical Rough – Never happened. We paid David **\$27,000.00 for electrical work** that was never started. We need that back so we can hire an electrician.

*JE cannot start the electrical until the roof is in.*



Furnace Connection – Someone did some work on the HVAC but we do not know who. We had three different HVAC companies come out to look at the work and they all stated that it needed to be torn out and done over. We paid David **\$20,940.00 for HVAC**, assuming we have to start all over, we need this money back.

*JE hired Philo HVAC to put in that system. JE disagrees that it needs to be started over and has already paid the contractor. We understand that other competing contractors have reviewed Philo's partial work and indicated that they would do it differently for a fee. If you would prefer to use a different contractor, we do not believe we can get the monies already paid to Philo back.*

Septic Inspection. – No septic was ever installed. Busschers was supposed to do it but they walked off when they were not paid, and they filed a lien on the home. Their lawyer plan to foreclose on the home soon. We paid David **\$90,646.56 for excavation** work only to get a lien on the home.

*JE has paid a portion of monies owed on the contract to Busschers, and they have completed a portion of the work. JE has communicated with the owner, Tim Busscher, who has indicated that he will return and complete the job once the grade needs to be set correctly.*

This totals \$140,882.31 we paid for work that was supposed to be completed in November.

*JE attributes most of the delays to the erosion issues and Trubuilt's refusal to comply with its contract, however, at this point David acknowledges that the project is behind schedule.*

Additionally, we paid \$164,620.18, for insulation, siding, drywall, flooring, interior trim, tile, and cabinets, all of which will not happen for months.

Per our phone conversation and earlier written notice to cure letter, I need to know what David's intentions are toward the home. Based on his inactions, we can only assume that no work will progress any time soon. The home is suffering damage due to being exposed to the elements. So we don't suffer further losses caused by David's inactions, we have to mitigate our losses and hire someone to dry in the roof, and complete the unfinished work that needs to be done before it is too cold to complete.

*JE intends to continue work on the project once these issues are agreed upon. David maintains that work has been progressing, albeit at a slower pace than planned.*

Please advise us of David's intentions to cure his breach of our contract. As outlined above, we have paid over \$300,000.00 for work that has not started. As of today, the schedule in Builder Trend shows no planned work at all. Should this matter not be resolved within the 30-day time to cure, we intend to file an action against Jenkins Estates, LTD and David Jenkins personally, as the CEO. We will file in Federal Court based on diversity of citizenship and amount in controversy over \$70,000.00. As you know, Michigan law makes it a felony to intentionally defraud by using Building Contract Funds for David's own use and not paying the subcontractors. While you stated that David did not have the requisite intent, evidence of intent can be found IF any payments were made to David before payments made to subcontractors. I am sure this will come out during Discovery. If what I suspect is true, then as David's attorney, I strongly recommend that he find the funding to make all this right before he has to defend himself on criminal charges, because as of today, this does not look too good.

*These are serious allegations and David does not take them lightly. David has never been accused of criminal conduct and has an excellent reputation. David regrets the status of the project at this point and intends to get the project back on track. He will return the phase iv/v monies discussed above, however, we should discuss what your suggested plan is when it comes time to complete that work. He does not intend to return monies already expended in whole, or in part to contractors.*

You mentioned that David now has help to straighten out and organize his accounting. Based on the \$795,000.00 I paid David, there should be ample funds to pay the subcontractors. In the meantime, our home needs to be completed. To complete the critical work that needs to be done to protect the home, I need the return of the \$218,709.49 paid to David for Phase iv & v work that will not be performed for months. I previously gave David one week to send a check. To date, I still do not see any indication that he plans to return this money. In addition, based on Jodie's comments, there is no plans to continue working on the home as well.

*David intends to complete the project, including paying the contractors. He also intends to complete Phase iv & v, however, he will need those draws or someone will be required to pay the contractors at that time. If it is your intent to not have him complete the project, please let us know.*

Please advise.

Thanks

Johannes M. Ploeg

**PLOEG & BROWN, P.C.**